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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

No. 1121

LEONARD A. PETO, *Petitioner,*

v.

MADISON SQUARE GARDEN CORPORATION, JAMES D. NORRIS, RINGLAND F. KILPATRICK, JR., Executor of the Estate of JOHN REED KILPATRICK, EDWARD S. IRISH, ARTHUR M. WIRTZ, and WALTER ANNENBERG, *Respondents*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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To the Honorable the Chief Justice and the Associate Justices:

Leonard A. Peto, petitioner, prays for the issuance of a writ of certiorari to review a judgment of the United States Court of Appeals for the Second Circuit.

OPINIONS BELOW

The judgment of the Court of Appeals (App. G, *infra,* pp. 26-28a) and its Order Denying Petition for Re-hearing (App. H, *infra,* p. 28a) are unreported.

The opinions of the United States District Court (App. A, *infra* pp. 1a-12a) and App. E, *infra* pp. 17a-23a), are unreported.

All Judgments, Opinions, Motions, and Memoranda are certified by the Clerk of the Court of Appeals, and are now lodged with the Clerk of this Court.

JURISDICTION

The Judgment of the Court of Appeals (App. G, *infra,* pp. 26a-28a) was rendered October 27, 1967. Timely Petition for Re-hearing was denied November 16, 1967 (App. H, *infra,* p. 28a).

The jurisdiction of this Court is invoked under U.S. Code, Title 28, Section 1254(1).

QUESTIONS PRESENTED

1. The Court of Appeals erred in its interpretation of the decision by the Supreme Court in *Leh* v. *General Petroleum Corporation,* et al, 382 U.S. 54 (1965), as it applies to *United States* v. *International Boxing Club,* et al, 358 U.S. 242 (1959), thereby depriving Plaintiff of deferment of the running of the Statute of Limitations;

2. The Court of Appeals erred by failing to correct error into which the District Court was misled through suppression of material evidence taken on depositions.

3. The Court of Appeals erred in overlooking failure by the District Court to enforce Defendant' under-

taking by affidavit to file originals of Plaintiff's pre-trial depositions, thereby depriving Plaintiff of fair hearing on the Motion for Summary Judgment.

4. The Court of Appeals erred by ignoring perjury and suppression and destruction of records which could be replaced only at a trial on the merits.

5. Petitioner's Motion is presented herewith (*infra*, p. 21) for enlargement of record.

STATUTES INVOLVED

Sherman Anti-Trust Act, 15 U.S.C., Sections 1 et seq, and Clayton Act, 15 U.S.C., Sections 12 et seq.

Plaintiff claimed deferment of Limitations under Section 5(b) of the Clayton Act (15 U.S.C., Section 16(b).

Defendants relied on 15 U.S.C., Section 15(b), Section 4(b).

STATEMENT

The monopolization and control of large sports arenas by Defendants Madison Square Garden Corporation (hereafter MSG), Arthur M. Wirtz and James D. Norris, about which the Government complained in *United States* v. *International Boxing Club, supra,* filed March 17, 1952, started with the Defendants' acquisition of Detroit Olympia in 1933 and Chicago Stadium in 1935. (Findings of Fact, above case, 150 F.Supp. 397,411)

Defendant James D. Norris testified before the subcommittee (#5) of the Committee on the Judiciary of the House of Representatives, August 8, 1957, that his owning in MSG started with acquisition of 40,000 shares